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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

TIMOTHY HARRIS,

Plaintiff,

v.

WELLS FARGO AUTO FINANCE,
LLC,

Defendant.

2:11-CV-388 JCM (PAL)

ORDER

Presently before the court is *pro se* plaintiff Timothy P. Harris' motion to reopen case. (Doc. #41). Defendant Wells Fargo Auto Finance, LLP filed an opposition. (Doc. #42). Plaintiff did not file a reply.

On August 18, 2011, plaintiff filed a motion for summary judgment. (Doc. #12). Defendant filed a counter motion for summary judgment on September 18, 2011. (Doc. #20). This court ruled on these motions on December 19, 2011, by granting defendant's motion for summary judgment and denying plaintiff's motion for summary judgment. (Doc. #39).

Plaintiff now moves to reopen the case, arguing that this court's order granting summary judgment in favor of defendant prevented plaintiff from engaging in full discovery. Plaintiff asserts that the parties had an extended discovery deadline in this case, and the court issued its order before discovery had finished. (Doc. #41). Plaintiff does not plead a specific Federal Rule of Civil Procedure for his motion to reopen.

1 In response, defendant first asserts that plaintiff's motion is properly understood as a motion
 2 to reconsider pursuant to Federal Rules of Civil Procedure 59(e) or 60(b). (Doc. #42). Defendant
 3 then argues that plaintiff has failed to meet the high burden required in a motion to reconsider.
 4 Defendant notes that plaintiff was the first party to move for summary judgment, thereby indicating
 5 that plaintiff believed there were no genuine issues of material fact.

6 Rule 59(e) motions for reconsideration "should not be granted, absent highly unusual
 7 circumstances." *Kona Enters., Inc. v. Estate of Bishop*, 229 F.3d 877, 890 (9th Cir. 2000). These
 8 circumstances are present where "the district court is presented with newly discovered evidence,
 9 committed clear error, or if there is an intervening change in the controlling law." *Id.* Similarly,
 10 Rule 60(b) "provides for reconsideration only upon a showing of (1) mistake, surprise, or excusable
 11 neglect; (2) newly discovered evidence; (3) fraud; (4) a void judgment; (5) a satisfied or discharged
 12 judgment; or (6) extraordinary circumstances which would justify relief." *School Dist. No. 1J,*
 13 *Multnomah County, Or. v. AcandS, Inc.*, 5 F.3d 1255, 1263 (9th Cir. 1993) (internal quotations
 14 omitted).

15 Plaintiff has not demonstrated that reconsideration is appropriate under either Rule 59(e) or
 16 60(b). Plaintiff has not shown newly discovered evidence, an intervening change in the law, or that
 17 the court committed clear error. FED. R. CIV. P. 59(e). Therefore, plaintiff has failed to show the
 18 "highly unusual circumstances" necessary for this court to reconsider its order granting summary
 19 judgment pursuant to Rule 59(e). *See Kona Enters., Inc.*, 229 F.3d at 890. Similarly, none of the
 20 potential grounds for relief under Rule 60(b) are applicable in this case. *See* FED. R. CIV. P. 60(b).

21 Accordingly,

22 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that *pro se* plaintiff Timothy
 23 P. Harris' motion to reopen case (doc. #41) be, and the same hereby is, DENIED.

24 DATED February 23, 2012.

25
 26 
 27 UNITED STATES DISTRICT JUDGE
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